

that:

- (a) encodes the amino acid sequence shown in SEQ ID NO: 2; and
(b) hybridizes under highly stringent conditions to the nucleotide sequence of SEQ ID NO:1 of the complement thereof.*

Please add new claims 6-7 as follows:

--6. (New) An isolated nucleic acid expression vector comprising the nucleotide sequence of SEQ ID NO:1.

7. (New) A host cell comprising the expression vector of claim 6.--

RESPONSE

I. Restriction Requirement

The Examiner has determined that the original claims are directed to three separate and distinct inventions under 35 U.S.C. § 121, as follows:

- Group I: Claims 1 (in part), 2 and 3, said to be drawn to a nucleic acid of SEQ ID NO:4 which encodes the amino acid sequence of SEQ ID NO:5, classified in class 536, subclass 23.5;
- Group II: Claims 1 (in part) and 4, said to be drawn to a nucleic acid of SEQ ID NO:6 which encodes the amino acid sequence of SEQ ID NO:7, classified in class 536, subclass 23.5; and
- Group III: Claim 5, said to be drawn to an expression vector comprising a nucleotide sequence that encodes SEQ ID NO:2 and hybridizes to SEQ ID NO:1, classified in class 435, subclass 320.1.

II. Response to Restriction Requirement

In response to the Restriction Requirement, Applicants hereby elect without traverse to prosecute the claims of the Group III invention (claim 5), drawn to an expression vector comprising a nucleotide sequence that encodes SEQ ID NO:2 and hybridizes to SEQ ID NO:1, classified in class 435, subclass 320.1. Accordingly, claims 1-4 have been canceled herein without prejudice and without

disclaimer as being drawn to non-elected inventions.

Applicants reserve the right to refile claims to the non-elected inventions in one or more future applications retaining the priority date of the present case and the earlier cited priority applications.

III. Status of the Claims

Claims 1-4, representing the Group I and II inventions, have been canceled without prejudice and without disclaimer as being drawn to non-elected inventions. No claims of the Group III invention have been canceled. Claim 5 has been amended. Claims 6-7 have been added.

Claims 5-7 are therefore presently pending in the case. For the convenience of the Examiner, a clean copy of the pending claims is attached hereto as **Exhibit A**. In compliance with 37 C.F.R. § 1.121(c)(1)(ii), a marked up copy of the original claims is attached hereto as **Exhibit B**.

IV. Support for the Amended and Newly Added Claims

Claim 5 has been amended to recite that the stringent hybridization conditions are highly stringent hybridization conditions. Support for this claim can be found throughout the specification as originally filed, with particular support being found at least at page 5, lines 1-11.

Claim 6 has been added to specifically recite expression vectors comprising the nucleic acid sequence of SEQ ID NO:1. Support for this claim can be found throughout the specification as originally filed, with particular support being found at least at page 14, lines 23-30.

Claim 7 has been added to specifically recite host cells comprising the expression vectors of claim 6. Support for this claim can be found throughout the specification as originally filed, with particular support being found at least from page 14, line 30 to page 15, line 3.

It will be understood that no new matter is included within the amended or newly added claims.

V. Inventorship

In response to the Examiner's reminder that, upon election of claims in response to the Restriction Requirement, inventorship must be amended in compliance with 37 C.F.R. § 1.48(b) (the Requirement at page 2), Applicants note that amendment of inventorship does not require "a petition under 37 C.F.R. § 1.48(b)" (the Requirement at page 3), but rather a request as set forth in 37 C.F.R. § 1.48(b)(1) and the processing fee as set forth in 37 C.F.R. § 1.17(i). Applicants therefore

respectfully request amendment of the inventorship of the present application under 37 C.F.R. § 1.48(b)(1) in order to remove the inventors of the non-elected claims, since their invention is no longer being claimed in the present application as amended. The inventors *that are requested to be removed* as a result of the cancellation of the non-elected claims as a result of the response to the restriction requirement are Yi Hu, C. Alexander Turner, Jr., and Boris Nepomnichy. The inventors of the remaining claims are, therefore, John Scoville and D. Wade Walke. Therefore, as a result of this amendment, the first named inventor of the present application is John Scoville.

As set forth under 37 C.F.R. § 1.48(b)(2), the Commissioner is hereby authorized to charge the fee required under 37 C.F.R. § 1.17(i) for this amendment and request to correct inventorship to Deposit Account No. 50-0892.

VI. Conclusion

The present document is a complete response to the Restriction and Species Election Requirement. Applicants believe that the claims of the instant application meet all of the conditions for patentability and are in condition for allowance. Accordingly, an early indication of the same is respectfully requested. Should Examiner Li have any questions or comments, or believe that certain amendments of the claims might serve to improve their clarity, a telephone call to the undersigned Applicants' representative is earnestly solicited.

Respectfully submitted,

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Date

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